EXHIBIT A

to Plaintiff's Sur-Reply in Further Support of Motion for Summary Judgment on First Cause of Action

Declaration of Keith Prociuk in Support of Plaintiff's Sur-Reply in Further Support of Motion for Summary Judgment on First Cause of Action

1 MARKS & KLEIN
   Andrew P. Bleiman, Esq.
2 1363 Shermer Road, Suite 318
   Northbrook, Illinois 60062
3 Telephone: (312) 206-5162
   E-mail: andrew@marksklein.com
4

5 CECILIA LEE, ESQ.
   NEVADA BAR NO. 3344
6 ELIZABETH FLETCHER, ESQ.
   NEVADA BAR NO. 10082
7 FLETCHER & LEE
   448 RIDGE STREET
8 RENO, NEVADA 89501
   775-324-1011
9 E-EMAIL:EFLETCHER@FLETCHERLAWGROUP.COM
   E-EMAIL:CLEE@FLETCHERLAWGROUP.COM
10

11 Attorneys for Plaintiff HP Tuners, LLC

12   UNITED STATES DISTRICT COURT
                   DISTRICT OF NEVADA
13

14 HP TUNERS, LLC, a Nevada limited liability)
   company,   )
15   )   CASE NO. 3:18-cv-00527-LRH-WGC
)
16   Plaintiff,   )   **DECLARATION OF KEITH PROCIUK**
)   **IN SUPPORT OF PLAINTIFF'S SUR-**
17   vs.   )   **REPLY IN FURTHER SUPPORT OF**
)   **MOTION FOR SUMMARY JUDGMENT**
18 KENNETH CANNATA,   )   **ON FIRST CAUSE OF ACTION**
)
19   Defendant.   )
   _____)
20

21   I, KEITH PROCIUK, pursuant to 28 U.S.C. § 1746, being duly sworn according to law, hereby

22 state and declare as follows:

23   1.   My name is Keith Prociuk. I am an individual over the age of 18 years. I have personal

24 knowledge of the matters set forth in my declaration and would be willing and able to testify thereto if

25 and when called upon to do so.

DECLARATION OF KEITH PROCIUK IN SUPPORT OF SUR-
REPLY IN FURTHER SUPPORT OF MOTION FOR SUMMARY
JUDGMENT ON FIRST CAUSE OF ACTION - page 1

2.   I am an owner of HP TUNERS, LLC ("HPT").

3.   At the time of the execution of the Operating Agreement, HPT offered products for sale, including an editor, scanner and a piece of hardware that would allow a user to communicate with an on-board computer of a vehicle.

4.   The "Technology" contributed by the members in connection with the Operating Agreement was designed to communicate with, read, flash, scan and edit the on-board computer of a vehicle.

5.   Subsequent to the execution of the Operating Agreement, over the years, the Company modified, enhanced and improved upon the Technology, including the VCM Suite Software, the hardware device, the firmware, the algorithms, routines and verification methods (among other things), to improve, enhance, make better and otherwise increase the quality of the manner in which the software and hardware was able to communicate with, read, flash, scan and edit the on-board computer of a vehicle.

6.   While the source code has been rewritten from scratch several times over the years, in many cases, the derived works were influenced or even direct recreations of the "Technology" as can be seen in the following examples from the VCM Suite Software written by me.

7.   For example, here is an excerpt of code that was contributed by me as part of the "Technology":

```
'Test Device Present
MSComm1.output = Chr(&H44) & Chr(&H6C) & Chr(&HFE) & Chr(&HF1) & Chr(&H3F)
```

(See Ex. A).

8.   Here is the derived work that existed in the code shared by Cannata:

```
// Test Device Present
byte[] output2 = { 0x6C, 0xFE, 0xF0, 0x3F };
```

DECLARATION OF KEITH PROCIUK IN SUPPORT OF SUR-
REPLY IN FURTHER SUPPORT OF MOTION FOR SUMMARY
JUDGMENT ON FIRST CAUSE OF ACTION - page 2

9.   Here is another piece of code that was contributed by me as part of the "Technology":

```
If key_hi = &H35 Then lblStatus.Caption = "Security Codes Denied - Invalid Authorization
Code"
If key_hi = &H36 Then lblStatus.Caption = "Security Codes Denied - Exceeded Number of
Attempts"
If key_hi = &H37 Then lblStatus.Caption = "Security Codes Denied - Requred Delay not
Expired"
```

10.   And here is the derived work that existed in the code shared by Cannata:

```
if (Byte_Lo == 0x35) { lblStatus.Text = "Security Codes Denied - Invalid Authorization Code";
}
if (Byte_Lo == 0x36) { lblStatus.Text = "Security Codes Denied - Exceeded Number of
Attempts"; }
if (Byte_Lo == 0x37) { lblStatus.Text = "Security Codes Denied - Required Delay not Expired";
}
```

11.   Furthermore, here is another piece of code that was contributed by me as part of the "Technology":

```
'Return to normal mode
MSComm1.output = Chr(&H4) & Chr(&H6C) & Chr(&HFE) & Chr(&HF1) & Chr(&H20)
```

12.   And here is the derived work that existed in the code shared by Cannata:

```
// Return to normal mode
byte[] output2 = { 0x6C, 0xFE, 0xF1, 0x20 };
```

13.   The software and information shared by Cannata constituted improvements, enhancements and derivative works to the Technology owned by the Company.

14.   Over the years, I improved, enhanced and created the VCM Suite Software and the code shared by Cannata was made up of and derived from the initial "Technology" that I contributed in connection with the Operating Agreement.

15.   While the tools, hardware and firmware were written from "scratch," the VCM Suite Software, the hardware device, the firmware, the algorithms, routines and verification methods was made up of and derived from the initial "Technology" contributed by me, Cannata and Mr. Piastri.

I hereby declare, under penalty of perjury, that all of the foregoing is true and accurate to the best of my knowledge and belief.

Dated: March 10, 2022

KEITH PROCIUK